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10/698,849	10/31/2003	Michal Morciniec	B-5283 621316-4	9307
22879 7590 02/02/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				
EXAMINER DUNHAM, JASON B				
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Please find below and/or attached an Office communication concerning this application or proceeding.

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1 UNITED STATES PATENT AND TRADEMARK OFFICE
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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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7

8 *Ex parte* MICHAL MORCINIEC, CLAUDIO BARTOLINI, ANDREW
9 ROBERT BYDE, CHRISTOPHER WILLIAM PREIST, and MATHIAS
10 JEAN RENE SALLE
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13 Appeal 2009-007676
14 Application 10/698,849
15 Technology Center 3600
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18 Decided: January 29, 2010
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23 *Before:* MURRIEL E. CRAWFORD, HUBERT C. LORIN, and BIBHU R.
24 MOHANTY, *Administrative Patent Judges*.
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26 CRAWFORD, *Administrative Patent Judge*.
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29 DECISION ON APPEAL
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STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 15, 17, and 19 to 27. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented a method and apparatus for use in making a purchase decision regarding purchases of a plurality of units of goods or service from a plurality of different potential suppliers (Spec. 1).

Claim 1 under appeal reads as follows:

1. Apparatus for use in making a purchase decision regarding purchase of a plurality of units of a good or service at a particular purchasing time from a plurality of potential suppliers, the apparatus comprising means for determining or otherwise obtaining a total quantity of units of said good or service required to be purchased at said purchasing time as defined by one or more purchase orders relating to said purchasing time, means for accessing details of terms under which said good or service may be purchased from each of said potential suppliers at said purchasing time, and means for providing an indication of one or more consequences of allocating portions of said total quantity to be purchased among said plurality of potential suppliers.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hahn-Carlson	US 2004/0010463 A1	Jan. 15, 2004
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The Examiner rejected claims 17 and 27 under 35 U.S.C. § 101 as reciting non statutory subject matter.

The Examiner rejected claims 1 to 15, 17, and 19 to 27 under 35 U.S.C. § 102(e) as being anticipated by Hahn-Carlson.

ISSUE

Have Appellants shown that the Examiner erred in finding that Hahn-Carlson discloses a means for providing an indication of one or more consequences of allocating portions of said total quantity to be purchased among said plurality of potential supplier?

FINDINGS OF FACT

The Examiner relies on paragraph [0050] of Hahn-Carlson for teaching means for providing an indication of one or more consequences of allocating portions of a total quantity to be purchased among said plurality of potential suppliers (Ans. 5).

Hahn-Carlson discloses an automated transaction processing system directed to communications and data processing involving the establishment and implementation of contracts [0002]. The Hahn-Carlson apparatus includes a Collaborative contracts manager (CCM) 210 which is adapted to search for contracts for a particular item offered by different sellers and to identify prices for purchase of the item by a particular buyer. Once eligible contracts are identified, a contract with the lowest price is selected and implemented. With this approach, a buyer can automatically have a lower-price eligible contract identified and implemented for purchasing products [0050].

PRINCIPLES OF LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior

art reference. *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir.), *cert. denied*, 484 U.S. 827 (1987).

ANALYSIS

Statutory subject matter

The Examiner's answer includes a new ground of rejection under 35 U.S.C. § 101 of claims 17 and 27. Our records indicate that Appellants have failed to respond to the new ground of rejection within two months from the date of the Answer. Accordingly, the appeal as to claims 17 and 27 is dismissed. *See* 37 C.F.R. § 41.39(b) (2009).

Anticipation

We will not sustain this rejection. We agree with the Appellants that Hahn-Carlson does not disclose a means for providing an indication of allocating portions of a total quantity to be purchased among a plurality of potential suppliers. While Hahn-Carlson does disclose a plurality of potential suppliers and compares prices from the plurality of suppliers, Hahn-Carlson does not disclose anything about allocating portions of a quantity to purchase among a plurality of suppliers. Rather, in Hahn-Carlson a purchaser selects a single supplier by comparing the prices of a plurality of suppliers. In view of the foregoing, we will not sustain the Examiner's rejection of claim 1 and claims 2 to 15 dependant thereon. We will also not sustain the rejection of claims 20 and 21 and claims 22 to 26 dependent thereon because independent claims 20 and 21 recited similar

1 language to claim 1 regarding the allocation of a purchase among a plurality
2 of suppliers.

3 We will sustain the rejection as it is directed to claim 19 because
4 Appellants do not advance specific arguments related to claim 19 and claim
5 19 does not recite and subject matter related to the allocation of a purchase
6 among a plurality of suppliers.

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8 **CONCLUSION OF LAW**

9 On the record before us, Appellants have shown that the Examiner
10 erred in rejecting claims 1 to 15 and 20 to 26. The Appellants have not
11 shown that the Examiner erred in rejecting claim 19. The appeal as it is
12 directed to claims 17 and 27 is dismissed.

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14 **DECISION**

15 The Examiner's rejection of claims 1 to 15 and 20 to 26 is sustained.
16 The Examiner's rejection of claim 19 is not sustained.

17 No time period for taking any subsequent action in connection with
18 this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
19 § 1.136(a)(1)(iv) (2007).

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21 **AFFIRMED-IN-PART**

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